

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

AMITE FOUNDRY AND MACHINE, INC.
AI # 2093

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.

*
*
* Enforcement Tracking No.
* AE-P-03-0422
*
*
*

SETTLEMENT

The following Settlement is hereby agreed to between Amite Foundry And Machine, Inc. ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a corporation who operates a steel foundry facility located at 13040 Foulks Lane in Amite, Tangipahoa Parish, Louisiana ("the Facility").

II

On January 25, 2004, the Department issued a Penalty Assessment, Enforcement No. AE-P-03-0422, in the amount of SIX THOUSAND ONE HUNDRED SEVENTY-SEVEN AND 73/100 DOLLARS (\$6,177.73) to Respondent, which was based upon the following findings of fact:

The facility currently operates under Title V Permit No. 2840-00032-V0, issued on October 5, 1999.

On or about September 4, 2003, a file review of the Respondent's facility was conducted to determine the degree of compliance with the Act and Air Quality Regulations. While the Department's investigation is not yet complete, the following violations were noted during the course of the file review:

- A. The Department received the Respondent's semiannual monitoring reports for the periods encompassing July through December 1999, January through June 2000, July through December 2000, January through June 2001, and July through December 2001, on June 18, 2002. Each late submittal of the semiannual monitoring report is a violation of Part 70 General Condition K of Title V Permit No. 2840-00032-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- B. The Department received the Respondent's annual compliance certifications for the 1999 and 2000 calendar years on June 18, 2002. The Department also received the Respondent's annual compliance certification for the 2001 calendar year on May 31, 2002. The Respondent failed to submit the annual compliance certifications to the Department by March 31, 2000, 2001, and 2002, respectively. Each late submittal of the annual compliance certification is a violation of Part 70 General Condition M of Title V Permit No. 2840-00032-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

On October 8, 2003, a Notice of Potential Penalty (NOPP), Enforcement Tracking No. AE-PP-03-0304, was issued to Respondent.

On October 24, 2003, the Department received a written response to the NOPP dated

October 21, 2003. In the response, the Respondent presented details of the history of the events surrounding the violations cited in the NOPP.

III

In response to the Penalty Assessment, Respondent did not make a request for a hearing.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of THREE THOUSAND AND NO/100 DOLLARS (\$3,000.00) of WHICH ONE HUNDRED SEVENTY-SEVEN AND 73/100 DOLLARS (\$177.73) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI

Respondent further agrees that the Department may consider the inspection report(s), the Penalty Assessment and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VIII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Tangipahoa Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the

Department. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303.

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

WITNESSES:

Lisa Bond
(Signature)

Lisa Bond
(Printed or Typed)

Mac Corbin
(Signature)

Mac Corbin
(Printed or Typed)

AMITE FOUNDRY AND MACHINE, INC.

BY: R. Neil Sweet
(Signature)

R. Neil Sweet
(Printed or Typed)

TITLE: President

THUS DONE AND SIGNED in duplicate original before me this 8 day of
April, 20 04, at _____.

[Signature]
NOTARY PUBLIC (ID# _____)

LAMANA Cherry
(Printed or Typed)

STATE OF LOUISIANA
Mike D. McDaniel, Ph.D., Secretary
Department of Environmental Quality

BY: Harold Leggett
Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 1st day of
July, 2004, at Baton Rouge, Louisiana.

STEVEN BEARD
NOTARY PUBLIC (ID# 22771)

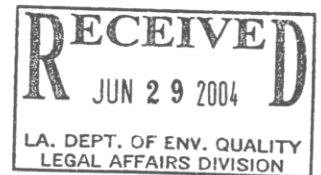
Steven Beard
(Printed or Typed)

Approved: R. Bruce Hammatt
R. Bruce Hammatt, Assistant Secretary



CHARLES C. FOTI, JR.
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005



June 23, 2004

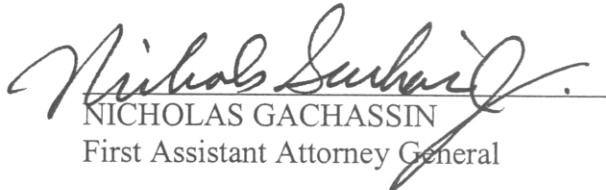
Mike D. McDaniel, Secretary
La. Department of Environmental Quality
Office of the Secretary
P.O. Box 4301
Baton Rouge, LA 70821-4301

Re: Review of DEQ Settlement;
Amite Foundry & Machine, Inc.
AE-P-03-0422

Dear Secretary McDaniel:

Pursuant to the authority granted to me by R.S. 30:2050.7(E)(2)(a), I approve the above referenced settlement.

Sincerely,


NICHOLAS GACHASSIN
First Assistant Attorney General

NG/cbw